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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,383	10/20/2003	Charbonneau Joan	64837/007	4159

29493 7590 03/22/2006
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EXAMINER

JOHNSON, JERROLD D

ART UNIT PAPER NUMBER

3728

DATE MAILED: 03/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/689,383

Applicant(s)

JOAN, CHARBONNEAU

Examiner

Jerrold Johnson

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Douglas US 1,040,652 in view of Zanegood US 2,940,447 and Gahm US 3,285,459.

Douglas, in Fig. 1, discloses the collapsible cup, as is set forth in the method claim. The telescoping components of Douglas are adapted to form a substantially liquid-tight seal upon telescopic extension by friction-fitting said plurality of telescoping components together, as is claimed. Douglas in Fig. 4 shows a lid 31.

Douglas does not disclose his cup being used for pill taking.

Gahm provides evidence of the use of collapsible cups specifically for pill taking. The telescoping components of Gahm, like Douglas are adapted to form a substantially liquid-tight seal upon telescopic extension by friction-fitting said plurality of telescoping components together, as is claimed.

Accordingly, one of ordinary skill in the art would recognize that the cup of Douglas would be appropriate for pill usage and that one of ordinary skill in the art would recognize the benefits of using a cup for this purpose.

Zanegood shows two versions of a vented pocket which is usable within the upper section of a cup used for pill taking. Accordingly, Zanegood discloses a vented

Art Unit: 3728

pocket that would be usable within topmost telescoping component of Douglas. The vented pocket can either be a separate unit disposed in a cup, or can be integrally molded into the cup. Additionally, Zane good implicitly discloses pills, and the

It would have been obvious to one of ordinary skill in the art to provide a collapsible cup of the type disclosed by Douglas, which are known to be of great benefit to pill takers (as is evidenced by Gahm), with a vented pocket for the disposal of a pill as is taught by Zane good, so as to make the pill taking process easier for those who have difficulty taking pills.

In summary, one of ordinary skill in the art would recognize from the teachings of Gahm of the benefits of using the collapsible cup of Douglas to facilitate pill taking, and one of ordinary skill in the art would further recognize from the teachings of Zane good how to include a vented pocket in that cup so as to ease the pill taking process.

And, as the collapsible cup with a vented pocket is obvious, the method of using it (placing a pill in the vented pill pocket) as is set forth in claim 1 is also obvious.

Re claim 2, the telescoping components of Douglas are all of a series of cylinders, as is claimed.

Re claims 3-5, see the rejection of claim 1.

Response to Arguments

Applicant's arguments are rendered moot in view of the new grounds for rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerrold Johnson whose telephone number is 571-272-7141. The examiner can normally be reached on 9:30 to 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

44


Mickey Yu
Supervisory Patent Examiner
Group 3700